

SANTA MONICA MOUNTAINS CONSERVANCY

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April 24, 2006

City Councilmembers
City of Malibu
23815 Stuart Ranch Road
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**Comments on Coastal Development Permit No. 05-099, 5900 Bonsall Drive,
Zuma Canyon Watershed**

Honorable Mayor Stern and Councilmembers:

According to the January 17, 2006 City of Malibu staff report and the public notice for the appeal, the proposed project consists of the demolition of an existing structure, development of a 9,939 square foot single family residence, a 5,326 square foot trellis, a detached stable, access driveway, and associated facilities, and includes variances for construction on artificial slopes and for exceeding the permitted non-exempt grading. The main residence includes 1,588 square feet of exterior glass covered areas. It appears the new residence would be made of single steel frame.¹

According to the City of Malibu staff report, a Categorical Exemption applies. Justifications for the appeal relate to compliance with the California Environmental Quality Act, trails, lighting, glare, biological resources, and views. This is an unusual circumstance and there is a reasonable possibility that the activity will have a significant effect on recreational uses. The Santa Monica Mountains Conservancy's concerns center around recreational and visual impacts. The Conservancy supports the appeal if their concerns are not adequately addressed.

Need to Preserve the Rosemary Thyme Trail

The Rosemary Thyme Trail is identified on the applicant's property in the City's March 8, 2004 Trails System map. The City has considered a Local Coastal Plan (LCP) amendment

¹December 29, 2005 letter from Susan K. Heri, Esq. of Manatt, Phelps & Phillips, LLP to Mr. Joshua Hart of the City of Malibu regarding Proposed Single-Family Residence 5900 Bonsall Drive (AKA 6317 Gayton Place) CDP# 05-099.

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to include the amended Trail Master Plan maps.² This Rosemary Thyme Trail has been contemplated by the City by its inclusion in the 2004 Malibu Trails Systems map, even if the LCP maps have not been updated. Many residents have asserted that this trail is a well-established horse trail. A July 14, 2003 memo from a Public Works Department Specialist to the City Council addresses the Rosemary Thyme Trail, and the Zuma Chute Trail (located to the north; discussed further below):

The “Rosemary Thyme Trail” and the “Zuma Chute Trail” are both trails which provide access from Zuma Canyon to Cavalleri Road and Gayton Place, continuing up Cavalleri Road to Kanan Dume and the Coastal Slope Trail. The Rosemary Thyme Trail is blocked at Gayton Place by a fence on the Winikoff Property (APN 4467-023-035). The Zuma Chute Trail is blocked at Cavalleri by a fence on the Sagati parcel (APN 4467-019-002)... Both of these trails have been in use for many years.

(Assessor’s Parcel Number [APN] 4467-023-035 is one of the properties that is part of this application.)

At the January 17, 2006 Planning Commission meeting, the Commission did not adequately support why it did not require the dedication of a trail easement. In our discussions with local residents, the existence of prescribed access rights for foot and horse traffic appear to be irrefutable. In addition, the application involves numerous legal parcels and variances, hence circumstances involving the development of access to more than one parcel.

The Conservancy recommends that the City require the granting of a trail easement, or an offer to dedicate (OTD) a trail easement, over the Rosemary Thyme Trail to a conservation and recreation organization such as Mountains Recreation and Conservation Authority (MRCA). The trail easement or OTD should be recorded prior to project-related permit issuance, demolition, or construction. Specifically, this trail easement or OTD should provide uninterrupted public access from Gayton Place to Bonsall Drive. This may require part of the easement to pass through the long and skinny parcel adjacent to Gayton Place (APN 4467-021-014), if public road access is not available along this short stretch.

²February 16, 2004 City of Malibu staff report to Mayor Kearsley and the Honorable Members of the City Council regarding Resolution No. 04-16 Memorializing the City Council’s July 22, 2002 Approval of Amended Maps for the Trails Master Plan.

It is our understanding that there may be more than one feasible route through the applicant's subject properties from Gayton Place to Bonsall Drive, and ultimately to the beach (at the Pacific Coast Highway undercrossing) or to Zuma Canyon. It may be possible to relocate the trail alignment used up until 2003 on the applicant's property to minimize any inconvenience to the property owner.

The Zuma Chute Trail (to the north of the Rosemary Thyme Trail) does not provide an equivalent trail connection for recreational purposes (equestrian and hikers) or for an evacuation route due its steepness and length. Equally important, there is no assurance when or if an easement would ever be required, or granted, on that property where the Zuma Chute Trail is located.

Need to Address Night-Time Lighting and Daytime Glare

The night-time skies in much of the Santa Monica Mountains are a valuable environmental resource for wildlife and humans. Per Section 30251 of the Coastal Act, permitted development shall be sited and designed to be visually compatible with the character of the surrounding area. With respect to this project, we are interested in preserving the nighttime dark skies and preserving views from trails and parklands.

This is a unique design of the house, including an extensive use of glass (1,588 square feet of exterior glass covered areas) and steel. There is a concern for light flooding out from the roof and walls during the night-time, as well as daytime glare from the steel and glass construction. The January 17, 2006 staff report fails to discuss the compatibility of the glass and steel construction materials with the surrounding area, and the likely resulting night-time lighting and daytime glare issues.

Condition 22 prohibits highly reflective materials (except solar energy panels), and requires the use of non-glare glass. This phrase "highly reflective" is subjective. The lawyer¹ describes the glass as non-glare dual-glazed translucent glass, and states that there would be a light transmission factor of 12 percent. The lawyer has asserted that the project does not have any significant effects upon light and glare. However, there is insufficient information regarding the project to come to this conclusion.

The Conservancy believes that this project warrants a closer look at the potential substantial, adverse visual impacts associated with day-time glare and night-time lighting. The following information should be provided: specifications on the type of glass and steel and examples where these types of materials have been used, the location of glass and

indoor lights, and an outdoor and indoor lighting plan.

We recommend a more detailed biological study to consider glare (from glass and steel) and light and its impacts on the environment. We specifically recommend additional analysis be conducted addressing potential “ecological light pollution” as further defined and described in Longcore and Rich (2004)³, including potential impacts to birds and mammals. In addition, the staff report must explicitly state whether glare from the steel and glass will be visible from public parkland and trails. Any conclusions must be backed up with justification to be relevant.

A more prudent approach would be to require definitive conditions to further minimize night-time lighting and daytime glare. Options to reduce glare and light should be explored and additional conditions should be required that may include using opaque glass, using non-glass surfaces for the trellis, reducing the amount of steel and glass, and requiring non-reflective materials.

Clarification of Future Street

The Conservancy also requests clarification regarding the “future street” shown on the meeting notice. This is not shown on the publicly-available 2006 Assessor’s Parcel data in our possession. Is this an anticipated future street, or has it been abandoned? If this is contemplated, what is the purpose of the street?

Summary

In summary, the Conservancy recommends that the City Council uphold the appeal unless the applicant is willing to accept the following conditions: (1) dedication of a trail easement or OTD for the Rosemary Thyme Trail on the property from Gayton Place to Bonsall Drive, and (2) project modifications to reduce glare and lighting impacts. If the applicant declines to accept these conditions, we urge the City to grant the appeal with prejudice and state that a new application should be subject to a Mitigated Negative Declaration.

³Loncore, T. and C. Rich. 2004. Ecological light pollution. *Frontiers in Ecology and the Environment* 2(4):191-198.

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Thank you for your consideration of these comments. Please direct any questions and all future correspondence to Judi Tamasi of our staff at the above address and by phone at (310) 589-3200, ext. 121.

Sincerely,

ELIZABETH A. CHEADLE
Chairperson